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Attorneys for the United States

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	2:12-CR-196-GMN-(GWF)
)	
MARIO DAVIS,)	
)	
Defendant.)	

**UNITED STATES OF AMERICA'S NOTICE THAT ITS INTERESTS AND RIGHTS
EXPIRED IN PROPERTY LISTED IN PRELIMINARY ORDER OF FORFEITURE**

The United States of America, by and through Daniel G. Bogden, United States Attorney for the District of Nevada, and Daniel D. Hollingsworth, Assistant United States Attorney, respectfully notifies this Honorable Court that its interests and rights in the following properties expired pursuant to Title 21, United States Code, Section 853(h):

- a. a Chartered Arms .38 caliber revolver bearing serial number 360444; and
- b. any and all ammunition.

This Notice is made and is based on the papers and pleadings on file herein, the attached Memorandum of Points and Authorities, and the attached Exhibit.

...

1 A proposed order is submitted with this Notice.

2 Dated this 9th day of August, 2013.

3 DANIEL G. BOGDEN
4 United States Attorney

5 /s/ Daniel D. Hollingsworth
6 DANIEL D. HOLLINGSWORTH
7 Assistant United States Attorney
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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 A Criminal Indictment was returned against Mario Davis on June 5, 2012. Criminal
3 Indictment, ECF No. 1. Davis pled guilty to the Criminal Indictment (ECF No. 1). Change of Plea
4 Minutes, ECF No. 31; Plea Agreement, ECF No. 33. On March 19, 2013, this Court entered the
5 Preliminary Order of Forfeiture (ECF No. 32) as to Davis. The Preliminary Order of Forfeiture
6 listed the following property:

- 7 a. a Chartered Arms .38 caliber revolver bearing serial number 360444; and
8 b. any and all ammunition.

9 The United States of America ("United States") does not have custody of the property listed
10 in the respective Preliminary Order of Forfeiture. The United States' forfeited interests and rights in
11 the property listed in the respective Preliminary Order of Forfeiture have expired. "Any property
12 right or interest not exercisable by, or transferrable for value to, the United States shall expire and
13 shall not revert to the defendant . . ." Title 21, United States Code, Section 853(h); Title 18, United
14 States Code, Section 1963(f); *see also United States v. Conner*, 603 F. Supp.2d 890, 896 (W.D. Va.
15 2009).

16 Based on the foregoing, this Court should enter an order indicating the United States'
17 interests and rights in the property listed in the Preliminary Order of Forfeiture have expired, that the
18 Preliminary Order of Forfeiture is reversed and are null and void (ECF No. 32), and the property
19 listed in the Preliminary Order of Forfeiture will not revert back to Davis and/or any person acting in
20 concert with him and/or on his behalf.

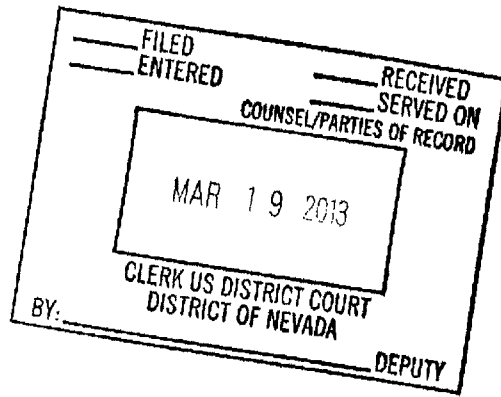
21 Dated this 9th day of August, 2013.

22 DANIEL G. BOGDEN
23 United States Attorney

24 /s/ Daniel D. Hollingsworth
25 DANIEL D. HOLLINGSWORTH
26 Assistant United States Attorney

EXHIBIT

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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARIO DAVIS,

Defendant.

2:12-CR-196-GMN-(GWF)

PRELIMINARY ORDER OF FORFEITURE

This Court finds that on March 19, 2013, defendant MARIO DAVIS pled guilty to Count One of a One-Count Criminal Indictment charging him with Felon in Possession of a Firearm in violation of Title 18, United States Code, Section 922(g)(1). Criminal Indictment, ECF No. 1; Plea Agreement, ECF No. 32.

This Court finds defendant MARIO DAVIS agreed to the forfeiture of the property set forth in Forfeiture Allegation of the Criminal Indictment and the Plea Agreement. Criminal Indictment, ECF No. 1; Plea Agreement, ECF No. 32.

This Court finds, pursuant to Fed. R. Crim. P. 32.2(b)(1) and (2), the United States of America has shown the requisite nexus between property set forth in the Forfeiture Allegation of the Criminal Indictment and agreed to in the Plea Agreement and the offense to which defendant MARIO DAVIS pled guilty.

The following assets are subject to forfeiture pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c):

- a. a Chartered Arms .38 caliber revolver bearing serial number 360444; and
- b. any and all ammunition ("property").

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the United States of America should seize the aforementioned property.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED all right, title, and interest of MARIO DAVIS in the aforementioned property is forfeited and is vested in the United States of America and shall be safely held by the United States of America until further order of the Court.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the United States of America shall publish for at least thirty (30) consecutive days on the official internet government forfeiture website, www.forfeiture.gov, notice of this Order, which shall describe the forfeited property, state the time under the applicable statute when a petition contesting the forfeiture must be filed, and state the name and contact information for the government attorney to be served with the petition, pursuant to Fed. R. Crim. P. 32.2(b)(6) and Title 21, United States Code, Section 853(n)(2).

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a petition, if any, must be filed with the Clerk of the Court, 333 Las Vegas Boulevard South, Las Vegas, Nevada 89101.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED a copy of the petition, if any, shall be served upon the Asset Forfeiture Attorney of the United States Attorney's Office at the following address at the time of filing:

Michael Humphreys
Assistant United States Attorney
Daniel Hollingsworth
Assistant United States Attorney
Lloyd D. George United States Courthouse
333 Las Vegas Boulevard South, Suite 5000
Las Vegas, Nevada 89101

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED the notice described herein need not be published in the event a Declaration of Forfeiture is issued by the appropriate agency

...

...

1 following publication of notice of seizure and intent to administratively forfeit the above-described
2 property.

3 DATED this 19 day of March, 2013.

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UNITED STATES DISTRICT JUDGE
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PROOF OF SERVICE

I, Ray Southwick, Forfeiture Support Associates Paralegal, certify that the following individual was served the within and foregoing **UNITED STATES OF AMERICA'S NOTICE THAT ITS INTERESTS AND RIGHTS EXPIRED IN PROPERTY LISTED IN PRELIMINARY ORDER OF FORFEITURE** on August 9, 2013, by the below-identified method of service:

CM/ECF:

Bret O. Whipple
Law Office of Bret Whipple
1100 S. 10th Street
Las Vegas, NV 89104
admin@justice-law-center.com
Attorney for Mario Davis

/s/ Ray Southwick
Ray Southwick
Forfeiture Support Associates Paralegal

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) 2:12-CR-196-GMN-(GWF)
)
MARIO DAVIS,)
)
Defendant.)

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that the United States of America's interests and rights expired in:

- a. a Chartered Arms .38 caliber revolver bearing serial number 360444; and
- b. any and all ammunition.

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the Preliminary Order of Forfeiture entered in this case is null and void (ECF No. 32);

IT IS FURTHER ORDERED, ADJUDGED, AND DECREED that the above-named property does not revert to Mario Davis and/or any person acting in concert with him and/or on his behalf.

IT IS SO ORDERED this 12th day of August, 2013.



Gloria M. Navarro
United States District Judge